Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Bill #	SB0332	**Title:**	Exempt tribally owned property from taxation
Primary Sponsor:	Juneau, Carol C	**Status:**	As Amended in Senate Committee

☑ Significant Local Gov Impact	☐ Needs to be included in HB 2	☑ Technical Concerns
☐ Included in the Executive Budget	☑ Significant Long-Term Impacts	☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0	$0	$0	$0
Revenue:				
General Fund	$0	($51,462)	($53,597)	($55,822)
State Special Revenue	$0	($3,250)	($3,385)	($3,525)
Net Impact-General Fund Balance	$0	($51,462)	($53,597)	($55,822)

Description of fiscal impact:

The bill exempts property from taxation if the property is (1) owned in fee by a federally recognized Indian tribe and is located within the exterior boundaries of the tribe's reservation; or (2) owned in fee by a state recognized Indian tribe and is located within the county in which a plurality of the tribe's members reside. The bill will reduce state revenue, local government revenue, and school revenue in thirteen counties.

FISCAL ANALYSIS

Assumptions:

1. The proposed law is effective January 1, 2008. This would first affect property tax assessments in tax year 2008, and property tax revenues in FY 2009.
2. The Little Shell Tribe of Chippewa Indians is the only state recognized tribe in Montana. The Tribe currently owns no real property.
3. Under existing law, tribally owned property held in trust and business equipment property located within reservations is not taxed. Tribally owned business equipment located outside of reservations is assumed

to be negligible. Only tribally owned real property held in fee on reservations is considered in this analysis.

State General Fund Revenue

4. The state general fund revenue impacted by this bill includes the 95 mills assessed on taxable property statewide and the 1.5 mills assessed on taxable property in Missoula, Cascade, Lewis & Clark, Silver Bow, and Yellowstone counties (college of technology counties).
5. The taxable value of tribally owned real property is assumed to grow at the same rate as the taxable value of statewide Class 4 property, 4.15% per annum (HJR 2), for calendar years 2008 through 2011.
6. The total taxable value of tribally owned real property in non-college of technology counties in calendar year 2006 is $498,386.
7. The total taxable value of tribally owned real property in college of technology counties in calendar year 2006 is $991.
8. The total calendar year 2006 taxable value of tribally owned real property statewide is $499,377 ($498,386 + $991).
9. In FY 2007, the general fund revenue generated from tribally owned real property is $47,442 {($498,386 x 0.095) + ($991 x 0.0965). General fund revenue generated from tribally owned real property is forecast to be $49,411 ($47,422 x 1.0415) in FY 2008, $51,462 ($49,411 x 1.0415) in FY 2009, $53,597 ($51,462 x 1.0415) in FY 2010, and $55,822 ($53,597 x 1.0415) in FY 2011.

State Special Revenue

10. The state special revenue impacted by this bill includes the 6 mills (University system) assessed on taxable property statewide.
11. In FY 2007, the university system revenue generated from tribally owned real property is $2,996 (499,377 x 0.006). University system revenue generated from tribally owned real property is forecast to be $3,121 ($2,996 x 1.0415) in FY 2008, $3,250 ($3,121 x 1.0415) in FY 2009, $3,385 ($3,250 x 1.0415) in FY 2010, and $3,525 ($3,385 x 1.0415) in FY 2011.

Total State Revenue from Taxable Tribal Properties from FY 2007 through FY 2011

12. In FY 2007, the total state share of revenue from taxes on tribally owned real property is $50,439 ($47,442 + $2,996). The total state share of revenue from taxes on tribally owned real property is forecast to be $52,532 ($49,411 + $3,121) in FY 2008, $54,712 ($51,462 + $3,250) in FY 2009, $56,982 ($53,597 + $ 3,385) in FY 2010, and $59,347 ($55,822 + $3,525) in FY 2011.

Local and State Revenues Impacted by the Bill

13. The total (state + local) actual tax revenue from tribally owned real property in FY 2007 is $256,625.
14. The actual local government revenue in FY 2007 is thus $206,186 ($256,625 – $50,439).
15. Unlike state mills which are static, local government mills change with each tax year. Estimating the impact of this bill upon local government revenues thus requires an estimate of mill levy growth in the relevant counties for tax years 2008 through 2011.
16. The growth in local mills applied to the taxable value of property for FY 2008 through FY 2011 is provided in Table 1. This growth is based on the average mill levy growth from calendar year 2003 to calendar year 2006 in levy districts in which the majority of the tribal land exempt under this bill is located. Those levy districts are categorized and averaged by county location. The tribally owned real properties used in this analysis are located in thirteen counties. Using data for mills levied within these

counties from calendar year 2002 through calendar year 2006, growth rates are forecast for mills levied in each of the thirteen counties. For eleven of thirteen counties, these growth rates are forecast using mills levied in the levy district with the largest measure of tribally owned real property in the county. For Lake and Sanders counties, the countywide averages of mills levied are used to determine the growth rates. This method is used for Lake and Sanders counties because tribally owned real property is distributed among many levy districts in each of these counties. The weighted average mill growth is 1.06% in FY 2008, 1.14% in FY 2009, 1.21% in FY 2010, and 1.28% in FY 2011. As shown in table 1, the weights are the amounts of revenue collected in each county.

Table 1
Projected Average Tribal Land Mill Levies by County

			*****************Projected Mill Levies*****************			
County	Average County Mill FY 2007	Mill Levy Growth Rate	FY 2008	FY 2009	FY 2010	FY 2011
Missoula	489	1.7%	498	506	515	524
Flathead	518	4.0%	538	560	582	605
Lake	502	3.5%	520	538	557	577
Sanders	510	4.3%	532	554	578	603
Phillips	470	4.6%	492	514	538	562
Blaine	444	-0.2%	443	442	441	440
Valley	501	5.1%	527	554	583	612
Big Horn	404	-3.6%	390	376	362	349
Yellowstone	511	0.5%	514	517	519	522
Rosebud	323	5.5%	341	360	379	400
Glacier	601	-0.1%	601	600	599	599
Pondera	556	2.9%	572	589	606	623
Hill	525	4.6%	549	574	600	628
Weighted Avg. Increase			1.06%	1.14%	1.21%	1.28%

17. Revenue from all mills levied on tribally owned real property in the state is forecast for FY 2008 through FY 2011 by using estimated FY 2007 revenue from all mills levied on tribally owned real property in each county in calendar year 2006, and growing this revenue through FY 2011using the HJR 2 growth in Class 4 taxable value and the mill growth rates estimated for each county.
18. The total tribal land property tax revenue is determined by multiplying the calendar year 2006 taxable value times the Class 4 property tax growth rate (4.15%) times the weighted average increase in the mill levies as shown below:
    - FY 2008: $270,112 ($256,625 x 1.0415 x 1.0106)
    - FY 2009: $284,519 ($270,112 x 1.0415 x 1.0114)
    - FY 2010: $299,915 ($284,519 x 1.0415 x 1.0121)
    - FY 2011: $316,374 ($299,915 x 1.0415 x 1.0128)
19. This bill is effective for calendar year 2008, so the fiscal impact begins in FY 2009. Property taxes assessed on real property during calendar year 2008 are paid in November of 2008 and May of 2009, or entirely within calendar year 2009.

20. Table 2 provides the projected state and local government property tax revenue loss under this bill.

Table 2
Projected Property Tax Revenue Loss due to SB 332
FY 2008 through FY 2011

Mill Type	FY 2008 Revenue	FY 2009 Revenue	FY 2010 Revenue	FY 2011 Revenue
Total Property Tax Loss	$0	$284,519	$299,915	$316,374
Less State Property Tax Loss	$0	($54,712)	($56,982)	($59,374)
Equals Local Governments Share	$0	$229,807	$242,933	$257,000

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
Revenues:				
General Fund (01)	$0	($51,462)	($53,597)	($55,822)
State Special Revenue (02)	$0	($3,250)	($3,385)	($3,525)
TOTAL Revenues	$0	($54,712)	($56,982)	($59,347)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	($51,462)	($53,597)	($55,822)
State Special Revenue (02)	$0	($3,250)	($3,385)	($3,525)

Effect on County or Other Local Revenues or Expenditures:

1. The loss to local governments and schools is projected to be $229,807 in FY 2009, $242,933 in FY 2010, and $257,000 in FY 2011.

Long-Range Impacts:

1. Under the proposed law, losses to the tax base will be ongoing.

Technical Notes:

1. In tax year 2006, Kerr Dam had a taxable value of $2,744,885 in levy district 15-3477. Currently, Kerr Dam is owned by PPL Montana. According to PPL Montana, the Confederated Salish and Kootenai Tribes (CSKT) have an option to purchase and assume operation of Kerr Dam in 2015. If the title to Kerr Dam is transferred to CSKT, the property would not be taxable under the proposed law.
2. The Kwa Taq Nuk and Glacier Peaks casinos are located on trust lands and are not currently taxable by state or local governments.
3. It is not clear whether property owned by a tribe and leased to a separate party for beneficial use, would be taxable under the privilege tax on beneficial use of tax-exempt property (15-24-1203, MCA).
4. All tribally owned property may not be identified.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*